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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,885	04/18/2001	Jun Liu	1941-76	1062

7590 11/25/2003

MARGER JOHNSON & McCOLLOM, P.C.
1030 S.W. Morrison Street
Portland, OR 97205

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

Advisory Action	Application No. 09/837,885	Applicant(s) LIU ET AL.	
	Examiner Victor S Chang	Art Unit 1771	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached NOTE.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-11, 53-55, 66-70 and 75-90.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

**DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300-
1700**

Daniel Zinker

NOTE

1. It is noted that the claim 2, and throughout, the claim has been marked as “(previously amended)”. The Examiner notes that it is now improper to use the phrase (previously amended), the correct phrase is (previously presented). Appropriate correction is required.
2. Applicants proposal to amend claims 1, 53 and 55 has been entered, so as to place the Application in better form for appeal by materially reducing or simplifying the issues for appeal.
3. With respect to Applicants’ argument that “It is well known to those skilled in the art that lack of a dehydroxylation step would indicate that the films of Brinker do not have stable dielectric constants in humid environments after the processing of the film is completed.” (Remarks, page 8, third paragraph), the Examiner notes that “dehydroxylation” is not recited in independent claim 1; further, Applicants fail to provide any sort of rebuttal evidence that the “dehydroxylation step” provides stable dielectric constants in humid environments. As such, the Examiner would like to strongly urge Applicants provide Declaration(s) which focuses both on the difference in dehydroxylation process between Brinker and the instant invention and also on the stability of the dielectric constants in humid environments.
4. With respect to Applicants’ argument that “Brinker is attempting to achieve highly ordered films, while these claims are directed to claims with a disordered porosity.” (Remarks, page 9, third paragraph), the Examiner repeats (see Paper No. 0827, page

6) that Brinker expressly shows in Fig. 8 the XRD of the film samples before and after calcination at 400°C, and teaches that the film order as judged by the intensity and FWHM of the $2\theta=2.4^\circ$ peak depends strongly on the pre-conditioning RH, with the greatest order achieved at 60% RH. As such, it is known that the order of the porosity can be modified over a wide range by modifying the RH during calcinations, as taught by Brinker, including the range of the disordered porosity of the instant claimed invention, Applicants' argument to the contrary notwithstanding.